

# Court of Appeals, State of Michigan

## ORDER

Ashley Schlusler v Narayna Bellamkonda MD

Docket No. 351867

LC No. 17-005947-NH

Kirsten Frank Kelly  
Presiding Judge

Michael J. Riordan

Thomas C. Cameron  
Judges

Pursuant to MCR 7.205(E)(2), and in lieu of granting the delayed application for leave to appeal, the Court orders that the Lenawee Circuit Court's September 24, 2019 order is REVERSED to the extent it denies defendants' motion to strike plaintiffs' expert, Kenneth Rothfield, M.D. The court's construction of the language of MCL 600.2169(1)(b), "during the year immediately preceding the date of the" alleged malpractice is contrary to what is clearly and unambiguously expressed. *Crego v Edward W Sparrow Hosp Ass'n*, 327 Mich App 525, 531; 937 NW2d 380 (2019) (clear and unambiguous statutory language is deemed an expression of the Legislature's intent). The statutory language clearly states that the pertinent timeframe for evaluating the criteria set forth in MCL 600.2169(1)(b) terminates on the date on which the alleged malpractice occurs and begins one year earlier. Here, the appropriate timeframe for consideration was July 6, 2014 to July 6, 2015. This matter is REMANDED to the trial court for entry of an order granting defendants' motion to strike Rothfield as a standard of care witness, for consideration of defendants' motion for summary disposition, and for further proceedings not inconsistent with this order.

This order is to have immediate effect. MCR 7.215(F)(2).

We do not retain jurisdiction.

  
Presiding Judge



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

March 25, 2020  
Date

  
Chief Clerk